



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/656,320	09/06/2000	Douglas G. Delany		9073

49056 7590 03/11/2005

LIEBERMAN & BRANDSDORFER, LLC
12221 MCDONALD CHAPEL DRIVE
GAITHERSBURG, MD 20878

EXAMINER

KARMIS, STEFANOS

ART UNIT PAPER NUMBER

3624

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/656,320

Applicant(s)

DELANY ET AL

Examiner

Stefano Karmis

Art Unit

3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following communication is in response to Applicant's amendment filed on 08 September 2004.

Status of Claims

2. Claims 1-3, 6-8, 11-15 are currently amended. Claims 4 and 5 are previously presented. Claims 9, 10, 16 and 17 are originally filed.

Response to Arguments

3. Applicant's arguments with respect to claim 1-17 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3624

5. Claims 4 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 and 5 recites the limitation "the file" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-17 rejected under 35 U.S.C. 102(e) as being anticipated by Wright U.S.

Publication 2001/0027449.

Regarding independent claim 1, Wright discloses a computer-implemented method for billing comprising:

assigning a weight score to a webserver function, wherein said score is a property of said function (page 2, paragraphs 0026 and 0028);

identifying a user (page 2, paragraph 0025);

determining if said function has been accessed by the user (page 2, paragraphs 0025-0026 and page 3, paragraph 0034);

identifying a number of uses of the function accessed in response to said determination (page 4, claim 10);

calculating an amount of usage by combining the number of uses of the function accessed by the user with the weight assigned to the function (page 4, claim 10); and

billing said user for said calculated amount of usage (page 3, paragraph 0033-0035).

Claim 2, wherein the step of calculating an amount of usage includes multiplying the number of uses of the function accessed by the user by the weight assigned to that function (page 4, claim 10).

Claim 3, determining a total amount of usage for the user by conducting a summation of a quantity of said amount of usage (page 2, paragraph 0027 and page 4, claim 10).

Claim 4 and 5, said step of determining required a webserver function log and a user log file (page 2, paragraphs 0025-0026 and page 3, paragraph 0034),

Regarding independent claim 6, Wright discloses a computer-implemented method for billing a user in a service provider environment comprising:

a function weight assigned to a web-server implemented function, , wherein said weight is a property of said function (page 2, paragraphs 0026 and 0028);

a user identification (page 2, paragraph 0025);

function adapted to be accessed by the user from a file (page 2, paragraphs 0025-0026 and page 3, paragraph 0034);

a manager adapted to track a number of uses of the function accessed by the user (page 4, claim 10); and

a usage amount calculated by combining the number of uses tracked by said manager with the weight assigned to the function (page 4, claim 10).

Claim 7, wherein usage amount is determined by multiplying the number of uses of the function by the weight assigned to that function (page 4, claim 10).

Claim 8, a total amount of usage for the user by summing a quantity of said usage amount (page 2, paragraph 0027 and page 4, claim 10).

Claims 9 and 10, the file is a webserver function log and a user log file (page 2, paragraphs 0025-0026 and page 3, paragraph 0034),

Regarding independent claim 11, Wright discloses an article for billing a user in a service provider environment comprising a computer-readable signal bearing medium storing instructions comprising:

instructions for assigning a weight to a webserver implemented function, (page 2, paragraphs 0026 and 0028);

instructions for determining at least one function that is accessed by the user from a file (page 2, paragraphs 0025-0026 and page 3, paragraph 0034);

instructions for identifying the function accessed by the user responsive to said determination instruction (page 4, claim 10); and

instructions for calculating a usage amount by combining the number of uses of said function by the weight assigned to that function (page 4, claim 10).

Claim 12, wherein the instructions for calculating usage amount includes multiplying the number of uses of the function by the weight assigned to the function (page 4, claim 10).

Claim 13, instructions for determining a total amount of usage for the user by summing usage amount (page 2, paragraph 0027 and page 4, claim 10).

Claims 14 and 15, the file is a webserver function log and a user log file (page 2, paragraphs 0025-0026 and page 3, paragraph 0034),

Claim 16, the medium is a recordable data storage medium (page 1, paragraphs 0009-0011 and page 2, paragraph 0030 thru page 3, paragraph 0033 and Figure 1).

Claim 17, the medium is a modulated carrier signal (page 1, paragraphs 0009-0011 and page 2, paragraph 0030 thru page 3, paragraph 0033 and Figure 1).

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

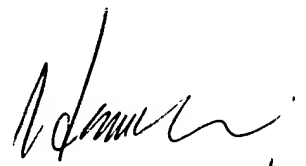
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefano Karmis whose telephone number is (703) 305-8130. The examiner can normally be reached on M-F: 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (703) 308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Respectfully Submitted
Stefano Karmis
02 March 2005



HANI M. KAZIMI
PRIMARY EXAMINER